

REMARKS

Applicants respectfully request reconsideration of this application as amended. Claims 1-2, 5, 7, 17, 19, 21, 23-25, 28 and 30 have been amended. Claims 3-4, 6, 8-16, 20, 22, 27 and 29 have been cancelled without prejudice. No new claims have been added. Therefore, claims 1-2, 5, 7, 17-19, 21, 23-25, 28 and 30 are presented for examination.

35 U.S.C. § 102 Rejection

Claims 1 - 30 are rejected under 35 U.S.C. §102(a) as being anticipated by Cota-Robles, et al., U.S. Patent Application No. 2003/0037089 ("Cota-Robles").

Common Assignee

Applicants submit that the use of Cota-Robles as prior art is invalid under 35 USC §102(e) and further under 35 USC §103(c).

Under 35 USC 102(e), a person shall be entitled to a patent unless "the invention was described in (1) an application for patent, published under section 122(b), *by another* filed in the United States before the invention by the applicant for patent" (emphasis added). Further, 35 USC 103(c)(1) states "subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, *shall not preclude patentability* under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, *owned by the same person or subject to an obligation of assignment to the same person*. (emphasis added). See also MPEP 706.02(1)(2).

Cota-Robles and the present application, at the time the invention was made, were subject to an obligation to be assigned to a common assignee, Intel Corporation, and are currently

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assigned to the said assignee. Accordingly, the use of Cota-Robles as prior art against the present application is invalid. See MPEP 706.02(1)(2); see also 35 USC §102(e), 35 USC §103(c). Applicants respectfully request that Cota-Robles be withdrawn as prior art and the pending claims be allowed.

New Amendments

Nevertheless, to expedite issuance of this case, Applicants propose the following amendments to the pending claims.

Claim 1, as amended, recites:

A method, comprising:
gathering information relating to a processor;
evaluating the information relating to the processor; and
managing a first virtual machine and a second virtual machine via the information, the managing of the first and second virtual machines including extending a predetermined processing time of the first virtual machine or suspending the predetermined processing time of the first virtual machine, wherein the suspending of the predetermined processing time includes switching tasks being performed on the first virtual machine to the second virtual machine, wherein the predetermined processing time is allocated to the first virtual machine by a central processing unit to perform the tasks.

(emphasis added)

Applicants respectfully request the withdrawal of the rejection of claim 1 and its dependent claims. Claims 17 and 24 contain limitations similar to those of claim 1. Applicants respectfully request the withdrawal of the rejection of claims 17 and 24 and their dependent claims.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

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The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

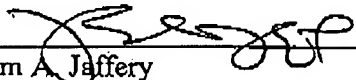
Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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